GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2015 REGULAR SESSION

HOUSE BILL NO. 62

AS ENACTED
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ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY L. Adler

AN ACT relating to public agencies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS 61.510 TO 61.705 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of KRS 61.510 to 61.705 or 78.510 to 78.852 to the contrary:

(1) Any employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System on July 1, 2015, except as limited by subsection (5) of this section, may:

(a) Voluntarily cease participation in its respective retirement system subject to the requirements and restrictions of this section; or

(b) Be required to involuntarily cease participation in the system under the provisions of this section if the board has determined the employer is no longer qualified to participate in a governmental plan or has failed to comply with the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852.

(2) (a) If an employer desires to voluntarily cease participation in the Kentucky Employees Retirement System or the County Employees Retirement System as provided by subsection (1)(a) of this section:

1. The employer shall adopt a resolution requesting to cease participation in the system and shall submit the resolution to the board for its approval;

2. The cessation of participation in the system shall apply to all employees of the employer;

3. The employer shall pay for all administrative costs of an actuarial study to be completed by the Kentucky Retirement Systems' consulting actuary and for any other administrative costs for discontinuing participation in the system as determined by the board and as provided

by this section;

4. The employer shall provide an alternative retirement program for employees who will no longer be covered by the system, which may include a voluntary defined contribution plan; and

5. The employer shall pay to the system the full actuarial cost of the benefits accrued by its current and former employees in the system as determined separately for the pension fund and the insurance fund by the actuarial study required by subparagraph 3. of this paragraph. The full actuarial cost shall not include any employee who seeks a refund of his or her account balance within sixty (60) days of the employer's effective cessation date. An employee's election to receive a refund of his or her account balance within sixty (60) days of the employer's effective cessation date is an irrevocable waiver of the right to obtain service credits for the time worked for the employer ceasing participation. The full actuarial cost may be paid by lump-sum payment or in installment payments to the system. The actuarial cost shall be fixed, and the employer shall not be subject to any increases or subsequent adjustments, once the lump sum is paid or the first installment payment is made. If the employer elects to pay the full actuarial cost in installment payments, the employer shall, as determined by the board:

a. Pay installment payments over a time period determined by the board, not to exceed twenty (20) years;

b. Be charged interest over the life of the installment period, at the actuarially assumed rate of return; and

c. Provide adequate security in any relevant real estate, chattel paper, deposit accounts, documents, goods covered by

documents, instruments, investment property, letters of credit rights, and money. In order to ensure security provided is adequate:

i. A detailed financing statement shall be provided to the Kentucky Retirement Systems board listing all assets to be used as security and the value certified by a licensed attorney;

ii. Security interest shall be a perfected interest in accordance with provisions set forth in KRS Chapter 355 and subject to approval of the board; and

iii. The perfected security interest shall attach until the amount owed is paid in full.

The board may file an action in the Franklin Circuit Court to collect money owed and to attach so much of the general fund or adequate security of the delinquent employer as is necessary to ensure payment of any installment payments owed under this section.

(b) If the board determines an employer must involuntarily cease participation in the system as provided by subsection (1)(b) of this section:

1. The cessation of participation in the system shall apply to all employees of the employer;

2. The employer shall pay for all administrative costs of an actuarial study to be completed by the Kentucky Retirement Systems' consulting actuary and for any other administrative costs for discontinuing participation in the system as determined by the board and as provided by this section; and

3. The employer shall pay to the system the full actuarial cost of the benefits accrued by its current and former employees in the system as

determined separately for the pension fund and the insurance fund by the actuarial study required by subparagraph 2. of this paragraph. The full actuarial cost shall not include any employee who seeks a refund of his or her account balance within sixty (60) days of the employer's effective cessation date. An employee's election to receive a refund of his or her account balance within sixty (60) days of the employer's effective cessation date is an irrevocable waiver of the right to obtain service credits for the time worked for the employer ceasing participation. The full actuarial cost may be paid by lump-sum payment or in installment payments to the system. The actuarial cost shall be fixed, and the employer shall not be subject to any increases or subsequent adjustments, once the lump sum is paid or the first installment payment is made. If the employer elects to pay the full actuarial cost in installment payments, the employer shall, as determined by the board:

a. Pay installment payments over a time period determined by the board, not to exceed twenty (20) years;

b. Be charged interest over the life of the installment period at the actuarially assumed rate of return; and

c. Provide adequate security in any relevant real estate, chattel paper, deposit accounts, documents, goods covered by documents, instruments, investment property, letters of credit rights, and money. In order to ensure security provided is adequate:

i. A detailed financing statement shall be provided to the Kentucky Retirement Systems board listing all assets to be used as security and the value certified by a licensed

attorney;

ii. Security interest shall be a perfected interest in accordance with provisions set forth in KRS Chapter 355 and subject to approval of the board; and

iii. The perfected security interest shall attach until the amount owed is paid in full.

The board may file an action in the Franklin Circuit Court to collect money owed and to attach so much of the general fund or adequate security of the delinquent employer as is necessary to ensure payment of any installment payments owed under this section.

(3) Any employee hired on or after the employer's effective cessation date by an employer who has ceased participation in the system as provided by this section shall not, regardless of his or her membership date in the systems administered by Kentucky Retirement Systems, be eligible to participate in the Kentucky Employees Retirement System or the County Employees Retirement System through the employer that ceased participation for the duration of his or her employment with that employer.

(4) If an employer has ceased participation in the system as provided by this section:

(a) The rights of recipients and the vested rights of inactive members accrued as of the employer's effective cessation date shall not be impaired or reduced in any manner as a result of the employer ceasing participation in the system; and

(b) Employees of the employer ceasing participation shall accrue benefits through the employer's effective cessation date but shall not accrue any additional benefits in the Kentucky Employees Retirement System or the County Employees Retirement System, including earning years of service credit through the ceased employer, after the employer's effective cessation

date for as long as they remain employed by the employer. The day after the employer's effective cessation date, each employee described by this paragraph shall be considered an inactive member with respect to his or her employment with the employer that ceased participation and, subject to the provisions and limitations of KRS 61.510 to 61.705 and 78.510 to 78.852, shall:

1. Retain his or her accounts with the Kentucky Employees Retirement System or the County Employees Retirement System and have those accounts credited with interest in accordance with KRS 61.510 to 61.705 and 78.510 to 78.852;

2. Retain his or her vested rights in accordance with paragraph (a) of this subsection;

3. Be eligible to take a refund of his or her accumulated account balance in accordance with KRS 61.625 or any other available distribution if eligible; and

4. Except for federal tax purposes, be treated as if his or her employment terminated as of the employer's effective cessation date, unless otherwise prohibited by applicable federal tax authority.

(5) (a) Kentucky Employees Retirement System employers who are county attorney offices, Commonwealth's attorney offices, local and district health departments governed by KRS Chapter 212, master commissioners, executive branch agencies whose employees are subject to KRS 18A.005 to 18A.200, state-administered retirement systems, state-supported universities and community colleges, property valuation administration offices, or employers in the legislative or judicial branch of Kentucky state government, shall not be eligible to voluntarily discontinue participation in the Kentucky Employees Retirement System unless the employer is a

nonstock nonprofit corporation organized under KRS Chapter 273.

(b) Only the employers in the County Employees Retirement System who are a nonstock nonprofit corporation organized under KRS Chapter 273 may voluntarily cease participation in the County Employees Retirement System.

(6) For purposes of this section, the full actuarial cost shall be determined by the Kentucky Retirement Systems' consulting actuary separately for the pension fund and the insurance fund using the assumptions established by the system as of the most recently completed actuarial valuation and based upon the following methodology:

(a) For each fund, the systems' consulting actuary shall determine the assets at market value that are held in the Kentucky Employees Retirement System or the County Employees Retirement System, as applicable, to cover employer-financed accrued liabilities. The market value of assets of each fund, to the extent sufficient, will be allocated to categories in the following order:

1. Inactive member accumulated account balances;

2. Active member accumulated account balances;

3. Recipient liabilities;

4. Employer-financed inactive member liabilities; and

5. Employer-financed active member liabilities;

(b) The systems' consulting actuary shall apportion the market value of assets in each fund for each category listed in paragraph (a) of this subsection to the employer ceasing participation based on the employer's share of each category's liabilities in the fund that are represented by the members and recipients of the employer ceasing participation;

(c) The systems' consulting actuary shall determine the amount of the employer-financed accrued liabilities separately for each fund for all members and recipients of the employer ceasing participation; and

(d) The full actuarial cost for each fund shall be equal to the amount by which paragraph (c) of this subsection exceeds paragraph (b) of this subsection.

(7) The Kentucky Retirement Systems shall promulgate administrative regulations pursuant to KRS Chapter 13A to administer this section.

(8) Any employer who voluntarily ceases participation, or who is required to involuntarily cease participation as provided in this section, shall hold the Commonwealth harmless from damages, attorney's fees and costs from legal claims for any cause of action brought by any member or retired member of the departing employer.

(9) For purposes of this section:

(a) "Employer's effective cessation date" means the last day of the system's plan year in the year in which the employer has elected to cease participation in the system, provided the employer has met the requirements of this section and has given the Kentucky Retirement Systems sufficient notice as provided by administrative regulations promulgated by the systems;

(b) "Inactive member" means a member who is not participating with the system;

(c) "Active member" means a member who is participating in the system; and

(d) "Employer" means the governing body of a department, as defined by Section 2 of this Act, or a county as defined by KRS 78.510.

➔Section 2. KRS 61.510 is amended to read as follows:

As used in KRS 61.510 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky Employees Retirement System created by KRS 61.510 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the

system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.510 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, interim, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.510 to 61.705;

(6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as

otherwise provided, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he serves in the position;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he served in the position prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon. For members who begin participating on or after September 1, 2008, "accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);

(13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the

member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). For members of the General Assembly, it shall mean all amounts which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 6.505(4) or 61.560(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's total service with the system in which it is recorded if it is equal to or greater than one thousand dollars ($1,000). In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4). For employees who begin participating on or after September 1, 2008, creditable compensation shall not include payments for compensatory time;

(14) "Final compensation" of a member means:

(a) For a member who begins participating before September 1, 2008, who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service

credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) years period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance;

(c) For a member who begins participating before September 1, 2008, who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;

(d) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is not employed in a hazardous position, as

provided in KRS 61.592, the creditable compensation of the member during the five (5) complete fiscal years immediately preceding retirement divided by five (5). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have five (5) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years shall be used; or

(e) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) complete fiscal years he was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social

Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. For members who began participating in the system prior to January 1, 2014, no disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.510 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefit limits as established by 26 U.S.C. sec. 415;

(20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150. The term shall also apply to assistants who were employed by the General Assembly for at least one (1) regular legislative session prior to July 13, 2004, who elect to participate in the retirement system, and who serve for at least six (6) regular legislative sessions. Assistants hired after July 13, 2004, shall be designated as interim employees;

(21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating

department for a period of time not to exceed nine (9) months;

(d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty; and

(e) Interim positions which are positions established for a one-time or recurring need not to exceed nine (9) months;

(22) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system. ***The term "parted employer" shall not include a department, board, or agency that ceased participation in the system pursuant to Section 1 of this Act***;

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;

(28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded actuarial accrued liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded actuarially accrued liability shall be projected to be fully amortized at the conclusion of the set period;

(29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;

(30) "Person" means a natural person;

(31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;

(33) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;

(34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543;

(35) "Month" means a calendar month;

(36) "Membership date" means:

(a) The date upon which the member began participating in the system as provided in KRS 61.543; or

(b) For a member electing to participate in the system pursuant to KRS 196.167(4) who has not previously participated in the system or the Kentucky Teachers' Retirement System, the date the member began participating in a defined contribution plan that meets the requirements of 26 U.S.C. sec. 403(b);

(37) "Participant" means a member, as defined by subsection (8) of this section, or a retired member, as defined by subsection (24) of this section;

(38) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:

(a) Is issued by a court or administrative agency; and

(b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee;

(39) "Alternate payee" means a spouse, former spouse, child, or other dependent of a

participant, who is designated to be paid retirement benefits in a qualified domestic relations order;

(40) "Accumulated employer credit" mean the employer pay credit deposited to the member's account and interest credited on such amounts as provided by KRS 16.583 and 61.597; and

(41) "Accumulated account balance" means:

(a) For members who began participating in the system prior to January 1, 2014, the member's accumulated contributions; or

(b) For members who began participating in the system on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597, the combined sum of the member's accumulated contributions and the member's accumulated employer credit.

➔Section 3. KRS 61.520 is amended to read as follows:

(1) Each department determined by the board to be eligible and qualified for participation shall participate in the system when the Governor by appropriate executive order, the authority to issue such executive order being granted, directs such department to participate in the system. The effective date of such participation shall be determined by the board and fixed by the Governor in his executive order.

(2) (a) Notwithstanding the provisions of subsection (1) of this section the Governor is authorized to permit any state college or university, which he directs by appropriate executive order to participate in the system after January 1, 1972, to include its noninstructional employees in the membership of the system while excluding the instructional employees of the state college or university from membership.

(b) All employees of an agency participating under authority of subsection (2)(a) of this section shall be considered noninstructional employees except the members of the instructional staff of the state college or university who are

responsible for teaching and the administrative positions which are included in the Teachers' Insurance and Annuity Association (TIAA) or the Kentucky Teachers' Retirement System.

(3) All executive orders issued under authority of this section since July 1, 1956, are hereby ratified by the General Assembly and each participating and contributing department, board, agency, corporation, board for mental health or individuals with an intellectual disability, or entity participating since that date under such executive order is hereby declared to be a participating department under the Kentucky Employees Retirement System.

(4) ***Except as provided by Section 1 of this Act:***

(a) Once a department participates it shall continue to participate as long as it remains qualified***; and***~~[.]~~

(b) Any position initially required to participate in the Kentucky Employees Retirement System shall continue to participate as long as the position exists.

➔Section 4. KRS 61.525 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating department after the date such department first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3);

(2) (a) All persons who are employees of a department on the date the department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following the department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.515 to 61.705;

(b) All persons who are employees of a department who did not elect to participate within thirty (30) days of the date the department first participated

in the system or within thirty (30) days of their return to active service and who subsequently elect to participate the first day of a month after the department's date of participation;

(3) All persons who are employees of any credit union whose membership was initially limited to employees of state government and their families and which subsequently may have been extended to local government employees and their families;

(4) All persons who were professional staff employees of the Council on Postsecondary Education or the Higher Education Assistance Authority and were contributing to the system on the effective date of Executive Order 74-762 or 75-964, respectively, and file a written election of their desire to continue in the system and all administrative and professional staff employees of the Higher Education Assistance Authority who, on or after January 1, 1993, are not participating in another retirement plan sponsored by the Higher Education Assistance Authority;

(5) All persons who were professional staff employees of the Kentucky Authority for Educational Television on and after July 1, 1974;

(6) All persons who are employees of the Teachers' Retirement System except employees who are required to participate under the Teachers' Retirement System under KRS 161.220(4)(d);

(7) Membership in the system shall not include ***persons who are not eligible to participate in the system as provided by Section 1 of this Act or*** those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360; and

(8) Effective January 1, 1998, employees of the Kentucky Community and Technical College System who were previously contributing members and are not required to participate in the Teachers' Retirement System as a member; employees who were

previously contributing members transferred from the former Cabinet for Workforce Development as provided in KRS 164.5805(1)(a) and who have not exercised the option to participate in the new Kentucky Community and Technical College personnel system as provided in KRS 164.5805(1)(e); and new employees as of July 1, 1997, who are not eligible under the Teachers' Retirement System or who are not contributing to an optional retirement plan established by the board of regents for the Kentucky Community and Technical College System.

➔Section 5. KRS 61.543 is amended to read as follows:

(1) ***(a)*** Employee contributions shall be deducted each payroll period from the creditable compensation of each employee of an agency participating in the retirement system while he is classified as regular full-time as defined in KRS 61.510 unless the employee**:**

1. Did not elect to become a member as provided by subsection (2) of KRS 61.525**;** ~~[, or unless the employee]~~

2. Did not elect membership pursuant to KRS 61.545(3)***; or***

3. Is not eligible to participate in the system as provided by Section 1 of this Act.

(b) After August 1, 1982, employee contributions shall be picked up by the employer pursuant to KRS 61.560(4). Service credit will be allowed for each month the contributions are deducted or picked up during a fiscal or calendar year, if the member receives creditable compensation for an average of one hundred (100) hours or more of work per month. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.

(2) Employee contributions shall not be deducted from the creditable compensation of an employee or picked up by the employer while he is seasonal, emergency,

temporary, or part-time. No service credit will be earned.

(3) Contributions shall not be made or picked up by the employer and no service credit will be earned by a member while on leave except:

(a) A member on military leave shall be entitled to service credit in accordance with KRS 61.555;

(b) A member on educational leave, approved by the Personnel Cabinet, who is receiving seventy-five percent (75%) or more of full salary, shall receive service credit and shall pay employee contributions, or the contributions shall be picked up in accordance with KRS 61.560 and his employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid or picked up during the period of educational leave shall be refunded; and

(c) An employee on educational leave, approved by the appointing authority, not to exceed one (1) year, or with additional approval of one (1) additional year, and not to exceed two (2) years within a five (5) year period, who is receiving a salary of less than seventy-five percent (75%) of full salary, may elect to retain membership in the system during the period of leave. If the employee elects to retain membership in the system, he shall receive service credit by having employee contributions picked up in accordance with KRS 61.560. His employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member, the employee and employer contributions paid or picked up during the period of educational leave shall be refunded to the contributor and no service credit shall be earned for the period of leave.

(4) The retirement office, upon detection, shall refund any erroneous employer and employee contributions made to the retirement system and any interest credited in accordance with KRS 61.575.

(5) Notwithstanding the provisions of this section and KRS 61.560, employees engaged pursuant to KRS 148.026 and 56.491 in a regular full-time position as defined in KRS 61.510(21) prior to January 1, 1993, shall be allowed service credit for each month the employee received creditable compensation for an average of one hundred (100) or more hours of work, if the employee pays to the retirement system the contributions that would have been deducted for the period of employment. The contributions shall be credited to the member's account and shall not be picked up pursuant to KRS 61.560(4). The employer contributions for the period, plus interest calculated at the actuarial rate, shall be due within thirty (30) days of notice of receipt of payment from the employee.

➔Section 6. KRS 61.560 is amended to read as follows:

(1) Each employee shall, commencing on August 1, 1986, contribute for each pay period for which he receives compensation five percent (5%) of his creditable compensation, unless he did not elect membership pursuant to KRS 61.545(3), and except that members of the General Assembly, who elect the survivorship option provided in KRS 61.635(13), shall each contribute six and six-tenths percent (6.6%) of creditable compensation commencing with the payroll period immediately following his election of the option. Any other provisions of KRS 61.515 to 61.705 notwithstanding, any reemployed retiree, as described in KRS 61.637, shall contribute five percent (5%) of his creditable compensation, or the amount required by KRS 61.592(3) if applicable, if he anticipates that he will receive more than the maximum permissible earnings, as provided by the Federal Social Security Act, in compensation as a result of reemployment during the calendar year.

(2) Each employer shall cause to be deducted from the creditable compensation of each employee for each and every payroll period the contribution payable by each such employee as provided in KRS 61.515 to 61.705.

(3) The deductions provided for herein shall be made notwithstanding that the

minimum compensation provided by law for any employee shall be reduced thereby. Every employee shall be deemed to consent and agree to the deductions made as provided herein; and payment of salary or compensation less such deductions shall be a full and complete discharge of all claims for services rendered by such person during the period covered by such payment, except as to any benefits provided by KRS 61.515 to 61.705.

(4) Each employer shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). These contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. Each employer shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 61.515 to 61.705 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

(5) The provisions of this section shall not apply to individuals who are not eligible for membership as provided by Section 1 of this Act.

➔Section 7. KRS 78.530 is amended to read as follows:

(1) (a) Each county and school board, as defined in KRS 78.510, will participate in the system by appropriate order authorizing such participation which has been

entered and duly recorded in the records of the governing body of the county or school board. In cases where general purpose county government does not participate, but the sheriff and his employees or the county clerk and his employees do, the sheriff or the clerk shall retain the order in his office. The authority to issue and properly record such order of participation being hereby granted, permits such county to participate in the system. The effective date of such participation shall be fixed in the order.

(b) Notwithstanding any statute to the contrary, after April 9, 2002, the systems shall deny the request for participation of any agency which does not have an irrevocable contract with the state Personnel Cabinet for health insurance coverage under KRS 18A.225 to 18A.229 for its active employees, except that:

1. County governments entering the system between April 9, 2002, and July 1, 2003, under this section shall be excluded from this requirement; and

2. Agencies entering the system on or after April 9, 2002, which were established by a merger or an interlocal agreement to provide public services shall be excluded from this requirement if all agencies entering into the merger or interlocal agreement had an initial participation date with the system prior to April 9, 2002.

(2) Once a county or school board participates, it shall thereafter continue to participate, except as provided in KRS 78.535.

(3) (a) Concurrent with the adoption of the appropriate resolution to participate in the system, a county may elect the alternate participation plan which will require the county to purchase on behalf of each employee electing coverage, at the time the county elected to participate in the system as provided under KRS 78.540(2), current service credit for employment in regular full-time positions

between July 1, 1958, and the participation date of the county. Cities which participate in the system pursuant to subsection ***(6)*** ~~[(7)]~~ of this section, KRS 79.080, 90.400, 90.410, 95.520, 95.621, 95.761, 95.768, 95.852, or 96.180 shall be required to purchase on behalf of each employee electing coverage only as much service credit as the employee has accumulated in the city-administered plan, up to the participation date of the city. Accumulated service shall include service for which an employee received a refund pursuant to KRS 95.620 or 95.866, if such refund has been repaid. If the employee has not yet repaid the refund, he may make payment to the system by any method acceptable to the system, and the requirement of five (5) years of continuous reemployment prior to repayment of refunds shall not apply. Upon the employee's repayment, the city shall purchase the associated service credit for the employee. Cost of such service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of such actuarial service shall be paid by the county;

(b) The county shall establish a payment schedule subject to approval by the board for payment of the cost of such service over and above that which would be funded within the existing employer contribution rate. The maximum period allowed in a payment schedule shall be thirty (30) years, with interest at the rate actuarially assumed by the board. A shorter period is desirable and the board may approve any payment schedule provided it is not longer than a thirty (30) year period, except that cities which participate in the system pursuant to subsection ***(6)*** ~~[(7)]~~ of this section, KRS 79.080, 90.400, 90.410, 95.520, 95.621, 95.761, 95.768, 95.852, or 96.180 may, at their option, extend the payment schedule to a maximum of thirty (30) years, may choose to make level payments at the interest rate actuarially assumed by the

board over the life of the payment schedule chosen, and may retain employer contributions and the earnings thereon attributable to employees electing coverage;

(c) A city entering the system under the alternate participation plan, may, by ordinance, levy a special property tax to pay for current service credit purchased for the period between July 1, 1958, and the participation date of the city. The special tax shall be to pay, within a period of no more than fifteen (15) years, for the cost of such service credit over that which would be funded within the existing employer contribution rate, as determined by the board's consulting actuary. The reason for levying the special tax and the disposition of the proceeds shall be part of the ordinance levying the tax. The special tax shall be rescinded when the unfunded prior service liability has been amortized, and shall not be subject to the provisions of KRS 132.017 or 132.027. In addition, the city may maintain any tax, the proceeds of which had been devoted to funding pension obligations under the locally administered plan prior to participation in the system, for the purpose of funding current service costs incurred after the date of participation. The city may increase the tax to pay current service costs which exceed the local pension system costs to which the tax had been devoted, but the city shall not collect from the tax more revenues than are necessary to pay current service costs incurred after the date of participation. The city may continue the tax so long as it participates in the system, and the tax shall not be subject to the provisions of KRS 132.017 or 132.027. The city shall not collect either tax authorized by this paragraph if its participation has been terminated pursuant to ***Section 1 of this Act***~~[KRS 78.535]~~;

(d) The county may at a later date purchase current service credit from July 1, 1958, to the participation date of the county by alternate participation plan for

those employees who rejected membership in the system at the time the county first participated. In addition, the employer shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his creditable compensation from the participation date of the county to the date he elects membership plus interest at the current actuarial rate compounded annually on the employee and employer contributions. Cost of the service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of the actuarial service shall be paid by the county. The county shall pay the cost of the service by lump sum or by adding it to the existing payment schedule established under paragraph (b) of this subsection;

(e) A county which did not participate by alternate participation may, until July 1, 1991, purchase current service credit for those employees who rejected membership in the system at the time the county first participated. The employer shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his creditable compensation from the participation date of the county to the date he elects membership plus interest at the current actuarial rate compounded annually on the employee and employer contributions. The county shall pay the cost of the service credit by lump sum or by establishing a payment schedule under paragraph (b) of this subsection; and

(f) A county which participated in the system but did not elect the alternate participation plan may at a later date elect the alternate participation plan. In

this case, the county shall purchase on behalf of each employee participating in the system current service credit for employment in regular full-time positions between July 1, 1958, or a later date selected by the county government, and the participation date of the county. The county shall also purchase, for employees who decide to participate when the county elects the alternate participation plan, current service credit for employment in regular full-time positions between July 1, 1958, or the later date selected by the county government, and the participation date of the county. In addition, the county shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his creditable compensation from the participation date of the county to the date he elects membership plus interest at the current actuarial rate compounded annually on the employee and employer contributions. Cost of the service credit over that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of the actuarial service shall be paid by the county. The county shall pay the cost of the service by lump sum or by a payment schedule established under paragraph (b) of this subsection.

(g) Notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, this subsection shall not apply to members who begin participating in the system on or after January 1, 2014, and no county that elects to participate in the system on or after January 1, 2014, shall be eligible to participate under the alternate participation plan.

(4) Every school board not participating on June 21, 1974, shall enact a resolution of participation no later than July 1, 1976.

(5) The order of the governing body of a county, as provided for in subsection (1) of

this section, may exclude from participation in the system hospitals and any other semi-independent agency. Each such excluded agency shall be identified in the order authorizing participation and such excluded agency may participate in the system as a separate agency.

(6) ~~[An agency whose participation in the County Employees Retirement System has been terminated by the board of trustees in accordance with KRS 78.535 may at a later date request participation in the retirement system by the adoption of an appropriate order as authorized by subsection (1) of this section. The board may accept the participation of such agency provided it is determined that such participation is in the best interest of the agency, the employees thereof and the County Employees Retirement System.~~

~~(7) [~~(a) After August 1, 1988, except as permitted by KRS 65.156, no local government retirement system shall be created pursuant to KRS 70.580 to 70.598 and any local government retirement systems created pursuant to KRS 79.080, 90.400, 90.410, 95.768, and KRS Chapter 96 shall be closed to new members. New employees who would have been granted membership in such retirement systems shall instead be granted membership in the County Employees Retirement System. Employees who would have been granted membership in retirement systems created pursuant to KRS 95.768, or any other policemen or firefighters who would have been granted membership in retirement systems created pursuant to KRS 79.080, 90.400, or 90.410, or any such policemen or firefighter members employed on or prior to August 1, 1988, who transfer to the County Employees Retirement System, shall be certified by their employers as working in hazardous positions. Each city participating in the County Employees Retirement System pursuant to this subsection shall execute the appropriate order authorizing such participation, shall select the alternate participation plan as described in subsection (3) of

this section, and shall pay for the actuarial services necessary to determine the additional costs of alternate participation. Cities which closed their local pension systems to new members and participated in the system prior to July 15, 1988, whose employees at the time of transition were given the option to join the system shall not be required to offer said employees a second option to join the system.

(b) Notwithstanding any statute to the contrary, after April 9, 2002, the systems shall deny the request for participation of any agency which does not have an irrevocable contract with the state Personnel Cabinet for health insurance coverage under KRS 18A.225 to 18A.229 for its active employees, except that agencies entering the system on or after April 9, 2002, which were established by a merger or an interlocal agreement to provide public services shall be excluded from this requirement if all agencies entering into the merger or interlocal agreement had an initial participation date with the system prior to April 9, 2002.

(7)~~[(8)]~~ Any city which closed a police and firefighter pension plan to new members between January 1, 1988, and July 15, 1988, and participated in the system under the alternate participation plan shall, if its police and firefighters were not covered by Social Security, or any city which operates a pension under KRS 90.400 or 90.410, shall be required to certify that its police and firefighters are working in hazardous positions, and shall offer its police and firefighters in service at the time of entry a second option to participate under hazardous duty coverage if they were not offered hazardous duty coverage at the time of their first option. The provisions of subsection (3)(b) of this section notwithstanding, a city affected by this subsection may, at its option, extend its payment schedule to the County Employees Retirement System for alternate participation to thirty (30) years at the rate actuarially assumed by the board.

➔Section 8. KRS 78.535 is amended to read as follows:

(1) If a participating county fails to fully comply with the provisions of KRS 78.510 to 78.852, ***the board may require the county to involuntarily cease participation in the system as provided by Section 1 of this Act***~~[the board shall notify the county in writing of its failure to comply and shall inform the county that the failure shall be deemed to be cause for termination of the participation of the county in the system]~~.

(2) ~~[In not less than ninety (90) days after the issuance of the notice in accordance with subsection (1) of this section, the board may terminate the participation of the county in the system unless the county has fully complied or has made satisfactory arrangements to comply. The board shall determine the effective date of the termination of participation.~~

~~(3) The county may appeal the decision of the board to the Franklin Circuit Court.~~

~~(4) Employees of the county who are members of the system on the effective date of termination of participation shall have the privilege of continuing in membership in the system until their county employment is terminated. The employees shall continue to make contributions to the system in accordance with the provisions of KRS 78.610 and the county shall contribute employer contributions for the employees in accordance with KRS 61.565.~~

~~(5) Notwithstanding the provisions of subsection (4) of this section, the aggregate amount of the employer contributions during a fiscal year of a county whose participation has been terminated by the board shall be not less than the amount the system is required to pay in retirement allowances during the fiscal year to former employees of the county and the beneficiaries of the former employees. In determining the amount of retirement allowances, the system shall allow credit for the member contributions paid by the former employees.~~

~~(6)]~~In lieu of ***cessation of***~~[termination of the]~~ participation of a county which fails to fully comply with the provisions of KRS 78.510 to 78.852, the board may file an

action in the Franklin Circuit Court to collect money owed and to attach so much of the general fund of the delinquent county as is necessary to achieve full compliance with the provisions of KRS 78.625.

➔Section 9. KRS 78.540 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating county after the date the county first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3), and except that mayors and members of city legislative bodies may decline prior to their participation in the system and city managers or other appointed local government executives who participate in a retirement system, other than Social Security, may decline prior to their participation in the system;

(2) (a) All persons who are employees of a county on the date the county first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days next following the county's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 78.520 to 78.852;

(b) All persons who are employees of a county who did not elect to participate within thirty (30) days of the date the county first participated in the system or within thirty (30) days of their return to active service and who subsequently elect to participate the first day of a month after the county's date of participation;

(3) All persons who declined participation in subsection (1) of this section and who later elect to participate. Persons who elect to participate under this subsection may purchase service credit for any prior years by paying a delayed contribution payment, provided the person began participating in the system prior to January 1,

2014. The service shall not be included in the member's total service for purposes of determining benefits under KRS 61.702; and

(4) All persons electing coverage in the system under KRS 78.530(3)(d).

(5) The provisions of subsections (1) and (2) of this section notwithstanding, cities which participate in the CERS and close existing local pension systems to new, or all members pursuant to the provisions of KRS 78.530, 95.520, 95.621, or 95.852 shall not be required to provide membership in the County Employees Retirement System to employees in any employee category not covered by a city pension system at the date of participation.

(6) Membership in the system shall not include ***persons who are not eligible to participate in the system as provided by Section 1 of this Act or*** those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360.

➔Section 10. KRS 78.610 is amended to read as follows:

(1) Each employee shall, commencing on August 1, 1990, contribute, for each pay period for which he receives compensation, five percent (5%) of his creditable compensation unless he did not elect membership pursuant to KRS 61.545(3).

(2) The agency reporting official of a participating county shall cause to be deducted from the "creditable compensation" of each employee for each and every payroll period subsequent to the date the county participated in the system the contribution payable by the member as provided in KRS 78.510 to 78.852. The agency reporting official shall promptly pay the deducted employee contributions to the system in accordance with KRS 78.625.

(3) The deductions provided for in subsection (2) of this section shall be made notwithstanding that the minimum compensation provided by law for any employee

shall be reduced thereby. Every employee shall be deemed to consent and agree to the deductions made as provided in subsection (2) of this section; and payment of salary or compensation less the deductions shall be a full and complete discharge of all claims for services rendered by the person during the period covered by the payment, except as to any benefits provided by KRS 78.510 to 78.852.

(4) Each employer shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). These contributions shall not be included as gross income of the employee until the contributions are distributed or made available to the employee. The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. Each employer shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 78.510 to 78.852 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

(5) The provisions of this section shall not apply to individuals who are not eligible for membership as provided by Section 1 of this Act.

➔Section 11. KRS 78.545 is amended to read as follows:

The following matters shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

(1) Cessation of membership, conditions, as provided for by KRS 61.535;

(2) Statement of member and employer, as provided for by KRS 61.540;

(3) Beneficiary to be designated by member, change, rights, as provided for by KRS 61.542;

(4) Service credit determination, as provided for by KRS 61.545;

(5) Cessation of membership, loss of benefits, as provided for by KRS 61.550;

(6) Service credit, Armed Forces, as provided for by KRS 61.555;

(7) Normal and early retirement eligibility requirements, as provided for by KRS 61.559;

(8) Retirement allowance increases as provided for by KRS 61.691;

(9) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;

(10) Disability retirement, conditions, as provided for by KRS 61.600;

(11) Disability retirement, allowance, as provided for by KRS 61.605;

(12) Medical examination after disability retirement, as provided for by KRS 61.610;

(13) Disability retirement allowance, reduction, as provided for by KRS 61.615;

(14) Determination of retirement allowance, as provided for by KRS 61.595;

(15) Refund of contributions, conditions, as provided for by KRS 61.625;

(16) Refund of contributions, death after retirement, as provided for by KRS 61.630;

(17) Optional retirement plans, as provided for by KRS 61.635;

(18) Suspension of retirement payments on reemployment, reinstatement, as provided for by KRS 61.637;

(19) Death before retirement, beneficiary's options, as provided for by KRS 61.640;

(20) Board of trustees, conflict of interest, as provided for by KRS 61.655;

(21) Custodian of funds, payments made, when, as provided for by KRS 61.660;

(22) Medical examiners and hearing procedures, as provided for by KRS 61.665;

(23) Actuarial bases, as provided for by KRS 61.670;

(24) Employer's administrative duties, as provided for by KRS 61.675;

(25) Correction of errors in records, as provided for by KRS 61.685;

(26) Exemptions of retirement allowances, and qualified domestic relations orders, as provided for by KRS 61.690;

(27) Credit for service prior to membership date, as provided for by KRS 61.526;

(28) Creditable compensation of fee officers, as provided for by KRS 61.541;

(29) Members' account, confidential, as provided for by KRS 61.661;

(30) Retirement plan for employees determined to be in a hazardous position, as provided for by KRS 61.592;

(31) Maximum disability benefit, as provided for by KRS 61.607;

(32) Consent of employees to deductions and reciprocal arrangement between systems, as provided for by KRS 61.680;

(33) Employer contributions, as provided for by KRS 61.565;

(34) Recontribution and delayed contribution payments, purchase of service credit, interest, and installment payments, as provided for by KRS 61.552;

(35) Hospital and medical insurance plan, as provided by KRS 61.702;

(36) Death benefit, as provided by KRS 61.705;

(37) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;

(38) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699;

(39) Disability procedure for members in hazardous positions as provided for in KRS 16.582;

(40) Direct deposit of recipient's retirement allowance as provided for in KRS 61.623;

(41) Death or disability from a duty-related injury as provided in KRS 61.621;

(42) Purchase of service credit effective July 1, 2001, as provided in KRS 61.5525;

(43) Payment of small accounts upon death of member, retiree, or recipient without

formal administration of the estate as provided in KRS 61.703;

(44) Hybrid cash balance plan provided to new members as provided by KRS 61.597;

(45) Employer payment of increases in creditable compensation during the last five (5) years of employment as provided by KRS 61.598;~~[and]~~

(46) Calculation of retirement allowance, as provided by KRS 61.599***; and***

(47) Voluntary and involuntary cessation of participation by a participating agency as provided by Section 1 of this Act.

➔Section 12. KRS 78.615 is amended to read as follows:

(1) Employee contributions shall be deducted each payroll period from the creditable compensation of each employee of an agency participating in the system while he is classified as regular full-time as defined in KRS 78.510 unless the person did not elect to become a member as provided by KRS 61.545(3) or by KRS 78.540(2) ***or is not eligible to participate in the system as provided by Section 1 of this Act***. After August 1, 1982, employee contributions shall be picked up by the employer pursuant to KRS 78.610(4).

(a) For employees who are not employed by a school board, service credit shall be allowed for each month contributions are deducted or picked up during a fiscal or calendar year, if the employee receives creditable compensation for an average of one hundred (100) hours or more of work per month based on the actual hours worked in a calendar or fiscal year. If the average number of hours of work is less than one hundred (100) hours per month, the employee shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.

(b) For noncertified employees of school boards, for service prior to July 1, 2000, service credit shall be allowed for each month contributions are deducted or picked up under the employee's employment contract during a school year determined by dividing the actual number of contracted calendar days worked

by twenty (20) and rounded to the nearest whole month if the employee receives creditable compensation for an average of eighty (80) or more hours of work per month based on the employee's employment contract. The school board shall certify the number of calendar days worked, the rate of pay, and the hours in a work day for each employee monthly or annually. The employer shall file at the retirement office the final monthly report or the annual report for a fiscal year no later than twenty (20) days following the completion of the fiscal year. The retirement system shall impose a penalty on the employer of one thousand dollars ($1,000) if the information is not submitted by the date required with an additional two hundred and fifty dollars ($250) for each additional thirty (30) day period the information is reported late.

1. If the employee works fewer than the number of contracted calendar days, the employee shall receive service credit determined by dividing the actual number of contracted calendar days worked by twenty (20) and rounded to the nearest whole month, provided that the number of hours worked during the period averages eighty (80) or more hours.
2. If the employee works fewer than the number of contracted calendar days and the average number of hours worked is less than eighty (80) per month, then the employee shall receive service credit for each calendar month in which he worked eighty (80) or more hours.
3. The retirement system shall refund contributions and service credit for any period for which the employee is not given credit under this subsection.

(c) For noncertified employees of school boards, for service on and after July 1, 2000, at the close of each fiscal year, the retirement system shall add service credit to the account of each employee who made contributions to his or her account during the year. Employees shall be entitled to a full year of service

credit if their total paid calendar days were not less than one hundred eighty (180) calendar days for a regular school or fiscal year. In the event an employee is paid for less than one hundred eighty (180) calendar days, the employee may purchase credit according to administrative regulations promulgated by the system. In no case shall more than one (1) year of service be credited for all service performed in one (1) fiscal year. Employees who complete their employment contract prior to the close of a fiscal year and elect to retire prior to the close of a fiscal year shall have their service credit reduced by eight percent (8%) for each calendar month that the retirement becomes effective prior to July 1. Employees who are employed and paid for less than the number of calendar days required in their normal employment year shall be entitled to pro rata service credit for the fractional service. This credit shall be based upon the number of calendar days employed and the number of calendar days in the employee's annual employment agreement or normal employment year. Service credit may not exceed the ratio between the school or fiscal year and the number of months or fraction of a month the employee is employed during that year.

(d) Notwithstanding paragraph (c) of this subsection, a noncertified employee of a school board who retires between July 1, 2000, and August 1, 2001, may choose to have service earned between July 1, 2000, and August 1, 2001, credited as described in paragraph (b) of this subsection, if the employee or retired member notifies the retirement system within one (1) year of his initial retirement. The decision once made shall be irrevocable.

(2) Employee contributions shall not be deducted from the creditable compensation of any employee or picked up by the employer while he is seasonal, emergency, temporary, or part-time. No service credit shall be earned.

(3) Contributions shall not be made or picked up by the employer and no service credit

shall be earned by a member while on leave except:

(a) A member on military leave shall be entitled to service credit in accordance with KRS 61.555; and

(b) A member on educational leave who meets the criteria established by the state Personnel Cabinet for approved educational leave, who is receiving seventy-five percent (75%) or more of full salary, shall receive service credit and shall pay member contributions in accordance with KRS 78.610, and his employer shall pay employer contributions or the contributions shall be picked up in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid or picked up during the period of educational leave shall be refunded.

(4) The retirement office, upon detection, shall refund any erroneous employer and employee contributions made to the retirement system and any interest credited in accordance with KRS 78.640.

➔Section 13. KRS 95.520 is amended to read as follows:

(1) In cities meeting the criteria set out in KRS 95.518, there shall be a policemen's and firefighters' pension fund, and a board of trustees for that fund unless the policemen and firefighters are included in the membership of the County Employees Retirement System.

(2) The board of trustees is the trustee of the pension fund, and has exclusive control and management of the pension fund and of all moneys donated or paid for the relief or pensioning of members of the police and fire departments. It may do all things necessary to protect the fund.

(3) (a) After August 1, 1988, no new locally administered pension fund shall be created pursuant to this section, and cities which were covered by this section on or prior to August 1, 1988, shall participate in the County Employees Retirement System effective August 1, 1988.

(b) Cities which were covered by this section on or prior to August 1, 1988, shall provide for the retirement of police or firefighters rehired after August 1, 1988, by placing such employees in the County Employees Retirement System.

(c) Cities which were covered by this section on or prior to August 1, 1988, shall place police or firefighters newly hired after August 1, 1988, in the County Employees Retirement System.

(d) Cities which were covered by this section on or prior to August 1, 1988, shall offer employees hired on or prior to August 1, 1988, membership in the County Employees Retirement System under the alternate participation plan as described in KRS 78.530(3), but such employees may elect to retain coverage under this section.

(e) The city shall certify that all police and firefighters placed in the County Employees Retirement System, and not covered by Social Security for their employment with the city, are employed in hazardous positions. If the police and firefighters are covered by Social Security for their employment with the city, the city may certify that they are employed in hazardous positions.

~~[(f) If the city's participation in the County Employees Retirement System is terminated pursuant to KRS 78.535, the city shall provide retirement benefits pursuant to KRS 95.520 to 95.620 to any of its police and firefighters who have not retained membership in the County Employees Retirement System pursuant to KRS 78.535(4).]~~

➔Section 14. KRS 95.621 is amended to read as follows:

(1) If a city described in KRS 95.518 adopted the alternative pension fund provisions under KRS 95.621 to 95.629 prior to August 1, 1988, to govern the pension fund for its policemen and firefighters, all the provisions in this section are mandatory. The provisions of KRS 95.620 shall apply to any city which has adopted KRS 95.621 to

95.629.

(2) Any member of the police or fire department serving at the time of passage of the ordinance and not desiring to participate in the fund and its benefits may be excluded by notifying the board of trustees of the pension fund in writing of his desire not to participate within ten (10) days after the effective date of this ordinance.

(3) (a) After August 1, 1988, no new pension fund shall be created pursuant to this section, and cities which were covered by this section on or prior to August 1, 1988, shall participate in the County Employees Retirement System effective August 1, 1988;

(b) Cities which were covered by this section on or prior to August 1, 1988, shall provide for the retirement of police or firefighters rehired after August 1, 1988, by placing such employees in the County Employees Retirement System;

(c) Cities which were covered by this section on or prior to August 1, 1988, shall place police or firefighters newly hired after August 1, 1988, in the County Employees Retirement System;

(d) Cities which were covered by this section on or prior to August 1, 1988, shall offer employees hired on or prior to August 1, 1988, membership in the County Employees Retirement System under the alternate participation plan as described in KRS 78.530(3), but such employees may elect to retain coverage under this section; ***and***

(e) The city shall certify that all police and firefighters placed in the County Employees Retirement System, and not covered by Social Security for their employment with the city, are employed in hazardous positions. If the police and firefighters are covered by Social Security for their employment with the city, the city may certify that they are employed in hazardous positions~~[; and~~

~~(f) If the city's participation in the County Employees Retirement System is terminated pursuant to KRS 78.535, the city shall provide retirement benefits pursuant to KRS 95.621 to 95.629 to any of its police and firefighters who have not retained membership in the County Employees Retirement System pursuant to KRS 78.535(4)~~].

➔Section 15. KRS 95.852 is amended to read as follows:

(1) There is hereby established in cities, a retirement and benefit fund for members of the police and fire departments, their dependents and beneficiaries, unless the policemen and firefighters are included in the membership of the County Employees Retirement System and certified to be working in hazardous positions. The fund shall be established as of July 1, 1956, and shall be known as the "Policemen's and Firefighters' Retirement Fund of the City of _____." In such name all of its business shall be transacted, and in such name or nominee name as provided by KRS 286.3-225 all of its moneys invested and all of its accumulated reserves consisting of cash, securities, and other property shall be held.

(2) (a) After August 1, 1988, no new pension fund shall be created pursuant to this section and cities which were covered by this section on or prior to August 1, 1988, shall participate in the County Employees Retirement System effective August 1, 1988;

(b) Cities which were covered by this section on or prior to August 1, 1988, shall provide for the retirement of police or firefighters rehired after August 1, 1988, by placing such employees in the County Employees Retirement System;

(c) Cities which were covered by this section on or prior to August 1, 1988, shall place police or firefighters newly hired after August 1, 1988, in the County Employees Retirement System;

(d) Cities which were covered by this section on or prior to August 1, 1988, shall

offer employees hired on or prior to August 1, 1988, membership in the County Employees Retirement System under the alternate participation plan as described in KRS 78.530(3), but such employees may elect to retain coverage under this section; ***and***

(e) The city shall certify that all police and firefighters placed in the County Employees Retirement System are employed in hazardous positions~~[; and~~

~~(f) If the city's participation in the County Employees Retirement System is terminated pursuant to KRS 78.535, the city shall provide retirement benefits pursuant to KRS 95.851 to 95.884 and KRS 95.991 to any of its police and firefighters who have not retained membership in the County Employees Retirement System pursuant to KRS 78.535(4)~~].

➔Section 16. KRS 210.440 is amended to read as follows:

(1) At the beginning of each fiscal year, the secretary of the Cabinet for Health and Family Services shall allocate available funds to the boards for mental health or individuals with an intellectual disability or nonprofit organizations for disbursement during the fiscal year in accordance with approved plans and budgets. The secretary shall, from time to time during the fiscal year, review the operations, budgets, and expenditures of the various programs; and if funds are not needed for a program to which they were allocated ***or if the board has failed to pay employer contributions for which it is liable by its participation in the Kentucky Employees Retirement System***, he may, after reasonable notice and opportunity for hearing, withdraw any funds that are unencumbered and reallocate them to other programs. He may withdraw funds from any program, or component part thereof:~~[,]~~

(a) Which is not being operated and administered in accordance with its approved plan and budget, and the policies and administrative regulations of the cabinet promulgated pursuant to KRS 210.370 to 210.480***; or***

(b) If the board has failed to pay employer contributions for which it is liable by

its participation in the Kentucky Employees Retirement System.

(2) If the secretary finds at any time that a board for mental health or individuals with an intellectual disability or nonprofit organization to which funds have been allocated for the operation of a regional community program for mental health or individuals with an intellectual disability is not operating and administering its program in compliance and accordance with the approved plan and budget and the policies and administrative regulations of the cabinet, ***or if the board has failed to pay employer contributions for which it is liable by its participation in the Kentucky Employees Retirement System or if the board has filed for bankruptcy,*** he may withdraw his recognition of that board or organization as the local authority for the receipt of funds and the operation and administration of regional community programs for mental health or individuals with an intellectual disability.

(3) If the secretary finds at any time that an emergency situation exists with regard to the financial stability of any regional board for mental health or individuals with an intellectual disability or nonprofit organization, ***including a regional board's inability to pay employer contributions to the Kentucky Employees Retirement System or a regional board's actions to file for bankruptcy,*** which jeopardizes the continuation of programs and provision of services in the area served by that board or nonprofit organization, he may, other statutes to the contrary notwithstanding:

(a) Appoint a caretaker administrator who shall be authorized to direct the operation and administration of the board or nonprofit organization's community programs for mental health or individuals with an intellectual disability including, but not limited to, their financial record keeping, their personnel management operations, and their financial and program reporting; and

(b) Make personnel changes deemed necessary to insure the continued operation of the board or nonprofit organization in compliance with its plan and budget

and the policies and regulations of the cabinet.

(4) Any community board for mental health or individuals with an intellectual disability to be affected by the provisions of subsections (2) and (3) of this section shall be notified by the secretary of the Cabinet for Health and Family Services thirty (30) days prior to the anticipated action by the secretary. The notification shall be by means of a letter from the secretary to the chairman of the board for mental health or individuals with an intellectual disability in question and shall state the reasons for the anticipated action. Following the notification, the board for mental health or individuals with an intellectual disability may:

(a) Comply with the secretary's action without contesting it; or

(b) Request an administrative hearing before a hearing officer appointed by the secretary to show cause why the action should not stand. The application shall be made within seven (7) days of the receipt of the letter from the secretary, and the hearing shall be conducted in accordance with KRS Chapter 13B.

➔Section 17. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Speaker-House of Representatives

President of Senate

Attest: Dean T. Burgin
Chief Clerk of House of Representatives

Approved
Governor

Date 3/20/15